IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.361 OF 1990

The State of Maharashtra) ..Appellant.
(Orig.Complainant)

Vs.

1) Shri Sopan Vithal Rokade)
Age 42 yrs. Occupation:)
Service, residing at)
Waheli, Taluka Haveli)
Dist. Pune.)
)
2) Gajanan Gulab Mhatre)
Age 48 yrs., Occupation:)
Service, Residing at)
Aundh, Pune) ..Respondents.
(Orig.Accused)

Mr.A.M.Shingarpure, A.P.P. for the State.

Mr.Jagdish G. Reddy, h/f. Mr.P.K.Dhakephalkar, Advocate for Respondent No.1.

CORAM: V.M.KANADE, J.
DATED: 28TH OCTOBER, 2004

ORAL JUDGMENT :

The State has filed this Appeal challenging the judgment and order passed by the Additional Special Judge, Pune in Special Case No.12 of 1986. By the said judgment and order dated 17.2.1990 the learned Additional Special Judge acquitted the accused of the offence punishable under section 161 of the Indian Penal Code and 5(1)(d) read with section 5(2)

of the Prevention of Corruption Act. The accused No.2 was also acquitted of the offence punishable under section 165-A and 161 read with section 34 of the Indian Penal Code and 5(1)(d) read with section 5(2 of the Prevention of Corruption Act.

2. The prosecution case is that complainant had purchased 10 gunthas of land from Dnvanoba Kodre. Accordingly, three sale deeds were registered, one in his own name and the other in the name of his wife and the third sale deed in the name of his brother. An application was made before the Tahsildar, Pune for entering their names in the record of rights. Initially, he met the Tahsildar who helped him to take the papers to Shri Rokade who was a Talathi. The complainant, thereafter, approached Accused No.1 Shri Rokade, who demanded an amount of Rs.2000/- for expediting the matter. According to the complainant, he went to the Office of the Talathi with an amount of Rs.800/-. The accused No.1 took the complainant to the house of the Tahsildar. After having reached there, Accused No.1 went inside the house of the Tahsildar and the complainant was asked to wait outside. After sometime, he came back and stated that the complainant should bring additional amount of

Rs.1200/-. Accordingly, the complainant paid Rs.800/- which he had brought with him and, thereafter, paid Rs.1200/- to the accused No.1 in the presence of his brother-in-law. Thereafter, again, on 12.5.1986 the Accused No.1 demanded a further amount of Rs.3000/-. Complainant thereafter filed a complaint with the Anti Corruption Bureau, who took a pre-trap panchnama and after having followed the entire procedure, the raiding party went to the office of the accused. The accused handed over three copies of the 7/12 to the complainant and asked him to pay the amount of Rs.3000/-. The complainant took out that amount from his pocket. However, he ws asked by the Accused No.1 to hand over the amount to Accused No.2 Kotwal who was standing in the office. After the pre-arranged signal was given, the raiding party entered the office and seized the amount from Accused No.2. A Charge-sheet was filed. The trial Court, after perusing the evidence adduced by the prosecution, acquitted the accused of the offence with which they were charged.

3. During the pendency of the Appeal, Accused No.1 expired on 4.8.1992. The death certificate is taken on record. The Appeal, in so far as Accused No.1 is

concerned, has therefore abated. The death certificate is marked ‘X’ for identification. The Appeal therefore survives only in respect of Accused No.2. In so far as Accused No.2 is concerned, it is an admitted position that he had accepted the amount at the instance of Accused No.1. The Accused No.2 was neither authorised to carry out the mutation entry nor was concerned in any way with the transaction between the complainant and the Accused No.1. The only role of Accused No.2 was that Accused No.1 had asked the Complainant to pay the amount to Accused No.2, who accepted the said amount innocently as he had no concern with the alleged conversation between the Complainant and Accused No.1. No evidence has been brought on record to show that Accused No.2 had knowledge about the said transaction with Accused No.1 and the Complainant, the undisputed fact is that Accused No.2 is a Kotwal and he was present in the office after having cleaned the office in the morning. The trial Court, in my view, has rightly held that prosecution had failed to establish its case so far as Accused No.2 is concerned.

4. In my view, no case is being made out by the Appellant. There is no reason to interfere with the

order passed by the trial Court. The Appeal is therefore dismissed.